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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,970	09/12/2003	Farooq Ullah Khan	37	6365
Docket Administrator Lucent Technologies Inc. (Room 3J-219) 101 Crawfords Corner Road Holmdel, NJ 07733-3030			EXAMINER AJAYI, JOEL	
			ART UNIT	PAPER NUMBER
			2617	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/11/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/660,970	Applicant(s) KHAN, FAROOQ ULLAH	
	Examiner Joel Ajayi	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on January 9, 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/12/03, 11/24/03, 1/27/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement submitted on 9/12/03, 11/24/03, 1/27/05 has been considered by the Examiner and made of record in the application file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8, 9, 11, 12, 14-23 are rejected under 35 U.S.C. 102(b) as being anticipated by **Honkasalo et al. (U.S. Patent Number: 5,995,496)**.

Consider **claim 1**; Honkasalo clearly discloses a method of wireless communication comprising: transmitting at least one sub-frame (first state) associated with a second frame (second state) using at least a first and a second wireless resource (power) if an acknowledgement message associated with a first frame is received (column 3, lines 24-31; column 5, lines 56-63; column 6, lines 43-47), and using at least a second wireless resource if a non-acknowledgement message associated with the first frame is received (column 3, lines 24-31; column 5, lines 4-15, 56-63; column 6, lines 43-47).

Consider **claim 14**; Honkasalo clearly discloses a method of wireless communication comprising: receiving one sub-frame (first state) of a plurality of sub-frames associated with a second frame (second state) using at least a first and a second wireless resource (power) if an acknowledgement message associated with a first frame is transmitted (column 3, lines 24-31;

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column 5, lines 56-63; column 6, lines 43-47), and using at least the second wireless resource if a non-acknowledgement message associated with the first frame is transmitted (column 3, lines 24-31; column 5, lines 4-15, 56-63; column 6, lines 43-47).

Consider **claims 2 and 15**; Honkasalo clearly discloses that the first and second least wireless resources comprise at least one of a channelization code, a channelization tone and an allocate transmit power level (column 6, lines 43-47).

Consider **claim 3**; Honkasalo clearly discloses the method of **claim 2**, comprising: transmitting at least one sub-frame associated with the first frame using at least the first wireless resource (power) (column 3, lines 24-31; column 5, lines 56-63; column 6, lines 43-47).

Consider **claim 4**; Honkasalo clearly discloses the method of **claim 3**, comprising: transmitting at least another sub-frame from the first frame using at least the first wireless resource in response to receiving the non-acknowledgement message associated with the first frame (column 3, lines 24-31; column 5, lines 4-15, 56-63; column 6, lines 43-47).

Consider **claims 5 and 18**; Honkasalo clearly discloses the method of **claim 4** wherein the at least another sub-frame of the first frame using the first wireless resource is transmitted concurrently with the transmitting of the at least one sub-frame from the second frame using the second wireless resource in response to receiving the non-acknowledgement message associated with the first frame (column 3, lines 24-31; column 5, lines 4-15, 35-50, 56-63; column 6, lines 43-47; column 9, lines 14-34).

Consider **claims 6, 9, 12, 19, 23**; Honkasalo clearly discloses that at least one of the first and second frames comprises a plurality of incrementally redundant sub-frames (column 3, lines 24-31; column 5, lines 4-15, 35-50, 56-63; column 6, lines 43-47; column 9, lines 14-34).

Consider **claims 8 and 20**; Honkasalo clearly discloses the method of **claim 7** wherein the first and second frames are assigned to a single user (column 4, lines 26-31).

Consider **claim 11**; Honkasalo clearly discloses the method of **claim 5**, comprising: transmitting at least one sub-frame from a subsequent frame using at least the first wireless resource if a non-acknowledgement message associated with the second frame is received (column 3, lines 24-31; column 5, lines 56-63; column 6, lines 43-47), and using at least the first and the second wireless resources if an acknowledgement message associated with the second frame is received (column 3, lines 24-31; column 5, lines 4-15, 56-63; column 6, lines 43-47).

Consider **claim 16**; Honkasalo clearly discloses the method of **claim 15**, comprising at least one of: receiving a sub-frame associated with the first frame using at least the first wireless resource; and failing to receive any sub-frames associated with the first frame before timing out (column 3, lines 24-31; column 5, lines 4-15, 35-50, 56-63; column 6, lines 43-47; column 9, lines 14-34).

Consider **claims 17, 21, 22**; Honkasalo clearly discloses the method of **claim 16**, comprising: awaiting reception of one sub-frame of a plurality of sub-frames associated with the first frame using at least the first wireless resource in response to transmitting the non-acknowledgement message associated with the first frame (column 3, lines 24-31; column 5, lines 4-15, 35-50, 56-63; column 6, lines 43-47; column 9, lines 14-34).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 7, 10, 13, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Honkasalo et al. (U.S. Patent Number: 5,995,496)** in view of **LaDue (U.S. Patent Application Number: 2003/0133423)**.

Consider **claim 7**; Honkasalo clearly discloses the claimed invention except that the first and second frames comprises at least one do-not-transmit sub-frame.

In the same field of endeavor LaDue clearly discloses that the first and second frames comprises at least one do-not-transmit sub-frame (abstract lines 1-16; paragraph 79, lines 14-25).

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Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teachings of LaDue into the method of Honkasalo in order to provide a method of sending a data communication over a wireless digital voice communications network which transmits voice communications in voice frames, each of which contains a digitized segment of a voice communication in a voice frame format.

Consider **claim 10**; the combination above clearly discloses terminating the transmitting of remaining sub-frames of the plurality of incrementally redundant sub-frames of the first frame in response to receiving an acknowledgement message associated with a most recently transmitted sub-frame of the first frame (abstract lines 1-16; paragraph 81, lines 7-11).

Consider **claims 13 and 24**; the combination above clearly discloses that at least one of the first and second frames comprises at least one of a voice sub-frame, a video sub-frame and a wireless gaming sub-frame (abstract lines 1-16).

Conclusion

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

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P.O. Box 1450
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Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joel Ajayi whose telephone number is (571) 270-1091. The Examiner can normally be reached on Monday-Friday from 7:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Joel Ajayi

January 05, 2007


NICK CORSARO
SUPERVISORY PATENT EXAMINER
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